

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
NORTHERN DIVISION

<p>SIOUX RURAL WATER SYSTEM, INC., a Non-Profit Corporation</p> <p>Plaintiff,</p> <p>vs.</p> <p>CITY OF WATERTOWN, a South Dakota Municipality, and WATERTOWN MUNICIPAL UTILITIES, an agency of the CITY OF WATERTOWN</p> <p>Defendants.</p>	<p>Civ. 15-1023</p> <p><b>PLAINTIFF’S MOTION IN LIMINE NO. 2</b></p> <p>To Exclude Evidence And Argument Regarding Defense Equitable Defenses</p>
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**INTRODUCTION**

Defendants have identified Dan Raderschadt as a witness who “has knowledge of the development of Lew’s addition as well as the agreement entered into between Sioux Rural Water and Watertown regarding the need for water service sufficient to support fire protection.” See Defendants’ Third Supplemental Disclosure Required by Rule 26(a)(1).

**DISCUSSION**

This Court has held as a matter of law that Sioux was entitled to summary judgment on issues concerning the Defendants’ equitable defenses. See Doc. 52, Opinion and Order. Defendants indicate they are going to solicit testimony as to purported “agreements” that were not approved by the United States Department of Agriculture. Such evidence is not relevant or admissible under FRE 401 and 403 in light of the

Court's ruling on the Defense equitable defenses.

### **CONCLUSION**

Any evidence, testimony, or argument concerning "agreements" and "negotiations" not approved by the United States Department of Agriculture should not be allowed to be placed in front of the jury in this case.

Dated this 14<sup>th</sup> day of August, 2017.

/s/ Jeff Cole

Jeff Cole

William D. Sims

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### **CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that a true and correct copy of Plaintiff's Motion in Limine No. 2, was electronically filed and served via the CM/ECF system on this 14<sup>th</sup> day of August, 2017 to:

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Dated this 14<sup>th</sup> day of August, 2017.

/s/ Jeff Cole

For the Firm